

NOT DESIGNATED FOR PUBLICATION

No. 125,200

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

STATE OF KANSAS,  
*Appellee,*

v.

CLARENCE WAYNE MATTOX,  
*Appellant.*

MEMORANDUM OPINION

Appeal from Barton District Court; CAREY L. HIPPI, judge. Opinion filed April 14, 2023.

Affirmed.

Submitted by the parties for summary disposition under K.S.A. 2022 Supp. 21-6820(g) and (h).

Before MALONE, P.J., GREEN and CLINE, JJ.

PER CURIAM: Clarence Wayne Mattox appeals the revocation of his probation and imposition of his original prison sentence. Although Mattox initially filed a brief, he later moved this court to resolve his appeal by summary disposition. We granted Mattox's motion for summary disposition of his appeal under Supreme Court Rule 7.041A (2023 Kan. S. Ct. R. at 48). The State does not object to summary disposition and urges this court to affirm the district court's ruling. Finding no abuse of discretion, we affirm.

Mattox pleaded to one count of possession of a controlled substance in exchange for the State's dismissal of a charge of possession of drug paraphernalia and its agreement

to recommend a dispositional departure. The district court sentenced Mattox to 34 months' imprisonment but granted a dispositional departure to probation for 12 months.

Three months after sentencing, the State alleged that Mattox had violated the terms of his probation by failing to report and living with an individual that he was ordered not to contact. On October 8, 2021, the district court found Mattox had violated the terms of his probation and ordered him to serve a 60-day sanction.

On May 2, 2022, the district court held another probation violation hearing after the State again alleged that Mattox had failed to report. Mattox stipulated to the alleged violation, and the court ordered him to serve his original sentence, noting that Mattox had continually violated the terms of his probation by failing to report. Mattox timely appealed the district court's judgment.

After a probation violation has been established, the decision to revoke a defendant's probation is within the sound discretion of the district court. *State v. Coleman*, 311 Kan. 332, 334, 460 P.3d 828 (2020). A district court abuses its discretion when it steps outside the framework or fails to properly consider statutory standards—that is, when its ruling is based on an error of law or fact, or if no reasonable person would agree with its decision. See 311 Kan. at 334. As the party asserting the court abused its discretion, Mattox bears the burden to show that abuse. See, e.g., *State v. Thomas*, 307 Kan. 733, 739, 415 P.3d 430 (2018).

Generally, a district court must impose graduated intermediate sanctions before revoking an offender's probation. K.S.A. 2022 Supp. 22-3716(c)(1). But K.S.A. 2022 Supp. 22-3716(c)(7)(B) permits a district court to revoke a probationer's probation—without first imposing graduated sanctions—if the probation was originally granted as a dispositional departure. Mattox was granted probation because of a dispositional

departure. The district court had the statutory authority to revoke probation and impose Mattox's original sentence upon finding that he violated the terms of his probation.

Mattox cannot show that the district court's decision was unreasonable under the circumstances. Mattox stipulated to the State's allegation that after he served his 60-day sanction, he failed to report to Community Corrections for the next 6 months. Mattox's Community Corrections supervisor testified that Mattox had only reported four times during the 11 months he was serving his probation. And because of the repeated failures to report, the supervisor expressed doubt that Mattox would succeed if he were granted another chance to comply with the terms of his probation. The supervisor noted that Mattox had failed to obtain a drug and alcohol assessment and stated he could not say whether substance abuse treatment would benefit Mattox. Presented with these facts, the district court noted that Mattox had "a very bad track record with probation" and that the sanctions he had served were ineffective at forcing his compliance. In the face of Mattox's repeated failures to report, it cannot be said that no reasonable person would agree with the district court's decision to revoke Mattox's probation.

Affirmed.